

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 BRANCH BANKING AND TRUST  
COMPANY,

5 Plaintiff,

6 v.

7 REGENA HOMES, LLC; YOEL INY;  
8 NOAM SCHWARTZ Y & T INY FAMILY  
TRUST dated June 8, 1994; NOAM  
9 SCHWARTZ TRUST dated August 19, 1999;  
DMSI, LLC; AND GREAT AMERICAN  
CAPITAL,

10 Defendants.

Case No. 2:12-cv-00451-APG-GWF

**ORDER**

12 During the May 12, 2015 hearing on the fair market value of the subject property,  
13 defendants argued that entry of judgment at this time is premature because two of their  
14 affirmative defenses (failure to mitigate damages and breach of the covenant of good faith)  
15 remain unresolved. Those defenses flow from the plaintiff's alleged breach of a work-out  
16 agreement and its alleged delay in foreclosing on the subject property. However, those defenses  
17 were previously resolved against defendants. Defendants asserted them in their opposition to  
18 plaintiff's motion for summary judgment. (Dkt. #86 at 20.) Judge Jones granted plaintiff  
19 summary judgment, thereby rejecting those defenses. (Dkt. #110.)

20 The parties subsequently argued this same issue in connection with plaintiff's motion in  
21 limine number 1. (Dkt. ##124, 134, 143.) I granted that motion, again rejecting defendants'  
22 argument. (Dkt. #158.) Thus, defendants' affirmative defenses have been adjudicated, and there  
23 is no need for further briefing on them.

24 DATED this 12th day of May, 2015.

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27 ANDREW P. GORDON  
28 UNITED STATES DISTRICT JUDGE